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I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: March 2, 2010

Name: John C. Freeman, Esq.

Signature: 

PATENT
CASE NO. 12212/39

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:)
)
Raymond I. Myers)
) Group Art Unit: 3769
U.S. Patent Application)
Serial No.: 10/750,789)
)
Filed: January 2, 2004)
) Examiner: David M. Shay
U.S. Patent No.: 7,655,002)
)
Granted: February 2, 2010)
For: LENTICULAR REFRACTIVE) Confirmation No. 1486
SURGERY OF PRESBYOPIA,)
OTHER REFRACTIVE ERRORS,)
AND CATARACT RETARDATION)

REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT

MAIL STOP PATENT EXT.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It has come to our attention that there may be an error in the patent term adjustment calculated by the U.S. Patent and Trademark Office for the above-referenced patent application. Specifically, the patent term adjustment pursuant to 35 U.S.C. 154(b) of 679 days indicated on the ISSUE NOTIFICATION - Determination of Patent Term Adjustment under 35 U.S.C. 154(b)

mailed on January 13, 2010 may extend the term of this patent by too few days. In particular, it is believed that the delay calculated by the Patent Office as being caused by the Patent Office is 226 days too small.

In particular, it is believed that the Patent Office has double counted a delay of 31 days regarding its delay in mailing a Notice of Allowance on May 4, 2009 in response to Applicant's Request for Continued Examination filed on December 3, 2008. This double counting is evidenced by the attached Patent Application Information Retrieval (PAIR) system's Patent Term Adjustment History that was publicly available as of March 2, 2010. It is believed that a Patent Office delay of 31 days, and not 62 days, is warranted for the late mailing of the Notice of Allowance.

The Patent Office has also failed to calculate 257 days of delay on its part due to the Patent Office's pre-Wyeth interpretation of 35 U.S.C. § 154(b)(2)(A). Applicant requests that the Patent Office recalculate the patent term adjustment in view of the Patent Office's interim procedure for patentees to request patent term adjustment recalculation that was announced on January 28, 2010. The undersigned notes that the interim procedure does not require the payment of a fee. Accordingly, no payment is being presented with this filing. If the undersigned is incorrect that no fee is required, then the undersigned requests that the appropriate fee be charged to Deposit Account No. 23-1925.

Based on the above comments, please review the calculation of the patent term adjustment and make corrections, if necessary.

Respectfully submitted,



John C. Freeman
Registration No. 34,483
Attorney for Applicant

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GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610
(312) 321-4200

Dated: March 2, 2010



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10/750,789

LENTICULAR REFRACTIVE SURGERY OF PRESBYOPIA, OTHER REFRACTIVE ERRORS, AND CATARACT RETARDATION

FPI 622004

Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Fees	Published Documents	Address & Attorney/Agent	Assignments	Display References
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Patent Term Adjustment

Filing or 371(c) Date:	01-02-2004	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	02-02-2010	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total Patent Term Adjustment (days):	679
USPTO Adjustment (days):	-	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
01-13-2010	PTA 36 Months		
02-02-2010	Patent Issue Date Used in PTA Calculation		
12-21-2009	Dispatch to FDC		
12-19-2009	Application Is Considered Ready for Issue		
12-15-2009	Issue Fee Payment Verified		
12-15-2009	Issue Fee Payment Received		
10-20-2009	Miscellaneous Incoming Letter		106
10-13-2009	Mail Notice of Allowance		⬆
10-09-2009	Document Verification		⬆
10-09-2009	Notice of Allowance Data Verification Completed		⬆
08-30-2009	Date Forwarded to Examiner		⬆
08-04-2009	Request for Continued Examination (RCE)		⬆
08-30-2009	Disposal for a RCE / CPA / R129		⬆
08-04-2009	Response to Reasons for Allowance		⬆
08-04-2009	Workflow - Request for RCE - Begin		⬆
05-28-2009	Mail Miscellaneous Communication to Applicant		⬆
05-26-2009	Miscellaneous Communication to Applicant - No Action Count		⬆
05-25-2009	TC Return to Pubs		⬆
05-14-2009	Pubs Case Remand to TC		⬆
05-04-2009	Mail Notice of Allowance	31	
05-04-2009	Mail Notice of Allowance	31	
04-22-2009	Document Verification	⬆	
04-22-2009	Document Verification	⬆	
04-21-2009	Notice of Allowance Data Verification Completed	⬆	
04-21-2009	Notice of Allowance Data Verification Completed	⬆	
12-29-2008	Date Forwarded to Examiner	⬆	
12-29-2008	Date Forwarded to Examiner	⬆	
12-29-2008	Date Forwarded to Examiner	⬆	
12-29-2008	Date Forwarded to Examiner	⬆	
12-03-2008	Request for Continued Examination (RCE)	⬆	
12-03-2008	Request for Continued Examination (RCE)	⬆	
12-29-2008	Disposal for a RCE / CPA / R129		
12-29-2008	Disposal for a RCE / CPA / R129		
12-29-2008	Case Docketed to Examiner in GAU		
12-29-2008	Case Docketed to Examiner in GAU		
09-15-2008	Pubs Case Remand to TC		
09-15-2008	Pubs Case Remand to TC		
12-03-2008	Workflow - Request for RCE - Begin		
12-03-2008	Workflow - Request for RCE - Begin		
09-15-2008	Receipt into Pubs		
09-15-2008	Receipt into Pubs		
09-04-2008	Mail Notice of Allowance		
09-04-2008	Mail Notice of Allowance		
08-25-2008	Change in Power of Attorney (May Include Associate POA)		
08-25-2008	Change in Power of Attorney (May Include Associate POA)		
08-22-2008	Correspondence Address Change		
08-22-2008	Correspondence Address Change		

08-15-2008	Document Verification	
08-15-2008	Document Verification	
08-18-2008	Notice of Allowance Data Verification Completed	
08-18-2008	Notice of Allowance Data Verification Completed	
03-07-2008	Information Disclosure Statement considered	
03-07-2008	Information Disclosure Statement considered	
02-04-2008	Information Disclosure Statement considered	
02-04-2008	Information Disclosure Statement considered	
06-10-2008	Date Forwarded to Examiner	
06-10-2008	Date Forwarded to Examiner	
06-10-2008	Date Forwarded to Examiner	
06-10-2008	Date Forwarded to Examiner	
06-04-2008	Request for Continued Examination (RCE)	
06-04-2008	Request for Continued Examination (RCE)	
06-10-2008	Disposal for a RCE / CPA / R129	
06-10-2008	Disposal for a RCE / CPA / R129	
06-04-2008	Workflow - Request for RCE - Begin	
06-04-2008	Workflow - Request for RCE - Begin	
05-08-2008	Notice of Appeal Filed	
05-08-2008	Notice of Appeal Filed	
03-29-2008	Email Notification	
03-29-2008	Email Notification	
03-25-2008	Mail Advisory Action (PTOL - 303)	
03-25-2008	Mail Advisory Action (PTOL - 303)	
03-18-2008	Advisory Action (PTOL-303)	
03-18-2008	Advisory Action (PTOL-303)	
03-07-2008	Reference capture on IDS	
03-07-2008	Reference capture on IDS	
03-07-2008	Information Disclosure Statement (IDS) Filed	
03-07-2008	Information Disclosure Statement (IDS) Filed	
03-07-2008	Amendment after Final Rejection	
03-07-2008	Amendment after Final Rejection	
03-07-2008	Electronic Information Disclosure Statement	
03-07-2008	Electronic Information Disclosure Statement	
03-13-2008	Date Forwarded to Examiner	
03-13-2008	Date Forwarded to Examiner	
03-07-2008	Amendment after Final Rejection	
03-07-2008	Amendment after Final Rejection	
03-13-2008	Email Notification	
03-13-2008	Email Notification	
03-07-2008	Information Disclosure Statement (IDS) Filed	
03-07-2008	Information Disclosure Statement (IDS) Filed	
03-10-2008	Mail Examiner Interview Summary (PTOL - 413)	
03-10-2008	Mail Examiner Interview Summary (PTOL - 413)	
02-27-2008	Examiner Interview Summary Record (PTOL - 413)	
02-27-2008	Examiner Interview Summary Record (PTOL - 413)	
02-08-2008	Miscellaneous Incoming Letter	
02-08-2008	Miscellaneous Incoming Letter	
02-04-2008	Electronic Information Disclosure Statement	105
02-04-2008	Electronic Information Disclosure Statement	105
02-09-2008	Electronic Review	⬆
02-09-2008	Electronic Review	⬆
02-08-2008	Email Notification	⬆
02-08-2008	Email Notification	⬆
02-08-2008	Mail Final Rejection (PTOL - 326)	⬆
02-08-2008	Mail Final Rejection (PTOL - 326)	⬆
02-04-2008	Information Disclosure Statement (IDS) Filed	⬆
02-04-2008	Information Disclosure Statement (IDS) Filed	⬆
01-09-2008	Final Rejection	⬆
01-09-2008	Final Rejection	⬆
10-26-2007	Information Disclosure Statement considered	⬆
10-26-2007	Information Disclosure Statement considered	⬆
10-26-2007	Miscellaneous Incoming Letter	⬆
10-26-2007	Miscellaneous Incoming Letter	⬆
10-26-2007	Electronic Information Disclosure Statement	⬆

10-26-2007	Information Disclosure Statement (IDS) Filed	933	⬆
10-26-2007	Date Forwarded to Examiner		⬆
10-22-2007	Response after Non-Final Action		⬆
09-22-2007	Electronic Review		
09-21-2007	Email Notification		
09-21-2007	Mail Non-Final Rejection	933	
09-17-2007	Non-Final Rejection		⬆
06-21-2006	Information Disclosure Statement considered		⬆
06-21-2006	Information Disclosure Statement considered		⬆
06-21-2006	Information Disclosure Statement considered		⬆
06-21-2006	Information Disclosure Statement considered		⬆
06-20-2006	Information Disclosure Statement considered		⬆
06-21-2006	Information Disclosure Statement considered		⬆
06-20-2006	Information Disclosure Statement considered		⬆
04-26-2006	Information Disclosure Statement considered		⬆
06-26-2006	Information Disclosure Statement considered		⬆
06-29-2006	Information Disclosure Statement considered		⬆
09-16-2005	Information Disclosure Statement considered		⬆
02-11-2005	Information Disclosure Statement considered		⬆
06-15-2004	Information Disclosure Statement considered		⬆
02-20-2007	Information Disclosure Statement considered		⬆
06-01-2004	Information Disclosure Statement considered		⬆
02-20-2007	Electronic Information Disclosure Statement		⬆
02-20-2007	Information Disclosure Statement (IDS) Filed		⬆
01-29-2007	Correspondence Address Change		⬆
01-29-2007	Change in Power of Attorney (May Include Associate POA)		⬆
06-29-2006	Information Disclosure Statement (IDS) Filed		⬆
06-29-2006	Information Disclosure Statement (IDS) Filed		⬆
06-30-2006	Preliminary Amendment		⬆
06-26-2006	Electronic Information Disclosure Statement		⬆
06-26-2006	Information Disclosure Statement (IDS) Filed		⬆
06-21-2006	Electronic Information Disclosure Statement		⬆
06-21-2006	Information Disclosure Statement (IDS) Filed		⬆
06-21-2006	Electronic Information Disclosure Statement		⬆
06-21-2006	Information Disclosure Statement (IDS) Filed		⬆
06-21-2006	Electronic Information Disclosure Statement		⬆
06-21-2006	Information Disclosure Statement (IDS) Filed		⬆
06-21-2006	Electronic Information Disclosure Statement		⬆
06-21-2006	Information Disclosure Statement (IDS) Filed		⬆
06-21-2006	Electronic Information Disclosure Statement		⬆
06-21-2006	Information Disclosure Statement (IDS) Filed		⬆
06-20-2006	Electronic Information Disclosure Statement		⬆
06-20-2006	Information Disclosure Statement (IDS) Filed		⬆
06-20-2006	Electronic Information Disclosure Statement		⬆
06-20-2006	Information Disclosure Statement (IDS) Filed		⬆
05-18-2006	Examiner Interview Summary Record (PTOL - 413)		⬆
04-26-2006	Electronic Information Disclosure Statement		⬆
04-26-2006	Information Disclosure Statement (IDS) Filed		⬆
12-19-2005	Miscellaneous Incoming Letter		⬆
12-09-2005	Case Docketed to Examiner in GAU		⬆
09-16-2005	Information Disclosure Statement (IDS) Filed		⬆
09-16-2005	Information Disclosure Statement (IDS) Filed		⬆
07-01-2005	Rule 47 / 48 Correction of Inventorship Papers Filed		⬆
07-01-2005	Preliminary Amendment		⬆
02-11-2005	Reference capture on IDS		⬆
02-11-2005	Information Disclosure Statement (IDS) Filed		⬆
02-11-2005	Information Disclosure Statement (IDS) Filed		⬆
02-06-2005	IFW TSS Processing by Tech Center Complete		⬆
02-06-2005	Case Docketed to Examiner In GAU		⬆
06-15-2004	Information Disclosure Statement (IDS) Filed		⬆
06-15-2004	Information Disclosure Statement (IDS) Filed		⬆
06-01-2004	Information Disclosure Statement (IDS) Filed		⬆
06-01-2004	Information Disclosure Statement (IDS) Filed		⬆
06-01-2004	Reference capture on IDS		⬆
07-02-2004	Application Return from OIPE		⬆

07-02-2004	Application Is Now Complete	⬆
07-02-2004	Application Return TO OIPE	⬆
07-01-2004	Application Return from OIPE	⬆
07-02-2004	Application Is Now Complete	⬆
07-01-2004	Application Return TO OIPE	⬆
06-30-2004	Application Return from OIPE	⬆
06-30-2004	Application Return TO OIPE	⬆
06-30-2004	Application Dispatched from OIPE	⬆
06-30-2004	Application Is Now Complete	⬆
06-14-2004	Payment of additional filing fee/Preexam	⬆
06-14-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	⬆
02-27-2004	Cleared by OIPE CSR	⬆
01-24-2004	IFW Scan & PACR Auto Security Review	⬆
01-02-2004	Initial Exam Team nn	⬆

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